IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No. 1262 of 2006.

Date of Decision: **March 5, 2007**.

Gurdev singh .....Petitioner.

Versus

State of H.P. and others ……Respondents.

Coram

The Hon'ble Mr. Justice V.K. Gupta, Chief Justice.
The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1]

For the Petitioner: Ms. Suman Thakur, Advocate.

For the Respondents: Mr. M.S. Chandel, Advocate General with Mr. J.K. Verma, Dy. Advocate General for respondents No. 1 & 2.

Mr. K.S. Banyal, Advocate, for respondent No.3.

V.K. Gupta, C. J. (Oral):

Replies have been filed by the respondents No.1 and 2 on the one hand and respondent No.3 on the other hand.

The entire controversy in this petition revolves around the interpretation to be put upon and the effect of communication No. EDN-H(Ele.)(4)(3)-26/2006 dated 21st August, 2006 issued by the Director,

[1] Whether Reporters of Local Papers may be allowed to see the judgment?

Elementary Education and addressed to all the Deputy Directors, Elementary Education, the text whereof reads thus:-

> "Please find enclosed herewith copies of the letter No. HPSSIEC: 3-23/2005 (II), dated 27-07-2006 received from the Deputy Secretary (Higher Edu.) to the Government of Himachal Pradesh, for the purchase of various items as per list of suggested rates, appropriate and practicable for the requirement from the H.P. State Small Industries & Export Corporation Limited as these are being supplied at the most competitive rates.
>
> In this connection, you are directed to keep in view the above letter of Corporation for making purchases of various items to Govt. Elementary Schools and accordingly circulate the same to all concerned under your control for further necessary action in the matter."

The petitioner's grievance is that the aforesaid communication in effect and substance may be construed as being of binding nature, compelling the Deputy Directors and the others concerned with the purchases to infer that the purchases have to be made only through the aegis of H.P. State Small Scale Industries and Export Corporation. In the replies filed by the respondents it has been clearly suggested that the contents of the aforesaid communication cannot and should not be construed as of binding nature. According to the replies, the Director, Elementary Education only suggests to his Deputy Directors to buy from the aforesaid Corporation.

Taking an over all view we also feel convinced that the aforesaid communication cannot be treated as of binding nature at all and that all the issues and questions with respect to the purchases have to be left to the sound discretion of the purchasing Officers, in best public interest. From

wherever they effect purchases they have to keep in mind that these are in best public interest, based upon most competitive rates and conforming to all quality standards. Whether the purchases are effected through the aegis of H.P. State Small Scale Industries and Export Corporation or through other sellers, the aforesaid parameters have to be kept in mind.

With the aforesaid observations and directions the Writ Petition is disposed of with no orders as to costs.

CMP No. 1971 of 2006.

Infructuous.

(V.K. Gupta), C.J.

March 5, 2007. **(V.K. Ahuja), J.**
(rks)